

SENATE AMENDMENTS TO SENATE BILL 27

By COMMITTEE ON RULES

May 3

1 On page 1 of the printed bill, line 2, after “249.740,” delete the rest of the line and delete line
2 3 and insert “249.865, 250.045, 250.165, 250.265, 253.065, 254.408, 254.470, 254.478, 255.012, 255.075,
3 255.085, 255.135, 260.232, 260.285 and 260.995.”

4 On page 9, after line 6, insert:

5 “**SECTION 9.** ORS 260.232 is amended to read:

6 “260.232. (1) The Secretary of State may impose a civil penalty as provided in this section, in
7 addition to any other penalty that may be imposed, for:

8 “(a) Failure to file a statement or certificate required to be filed under ORS 260.044, 260.057,
9 260.076, 260.078, 260.083, 260.112 or 260.118.

10 “(b) Failure to include in a statement filed under ORS 260.044, 260.057, 260.076, 260.078, 260.083,
11 260.112 or 260.118 the information required under ORS 260.044, 260.057, 260.076, 260.083 or 260.118.

12 “(2)(a) If a person required to file has not filed a statement or certificate complying with appli-
13 cable provisions of ORS 260.044, 260.057, 260.076, 260.078, 260.083, 260.085, 260.112 or 260.118 within
14 the time specified in ORS 260.044, 260.057, 260.076, 260.078 or 260.118, the Secretary of State by first
15 class mail or electronically shall notify the person or elector designated under ORS 260.042 or
16 260.118 that a penalty may be imposed and that the person has 20 days from the service date on the
17 notice to request a hearing before the Secretary of State.

18 “(b) If the person required to file is a candidate or the principal campaign committee of a can-
19 didate, the Secretary of State shall send the notice described in paragraph (a) of this subsection by
20 first class mail or electronically to the candidate. The notice shall be used for purposes of deter-
21 mining the deadline for requesting a hearing under subsection (3) of this section.

22 “(3) A hearing on whether to impose a civil penalty and to consider circumstances in mitigation
23 shall be held by the Secretary of State:

24 “(a) Upon request of the person against whom the penalty may be assessed, if the request is
25 made not later than the 20th day *[from]* **after** the service date on the notice sent under subsection
26 (2) of this section;

27 “(b) Upon request of the filing officer with whom a statement or certificate was required to be
28 filed but was not filed; or

29 “(c) Upon the Secretary of State’s own motion.

30 “(4) A hearing under subsection (3) of this section shall be held not later than 45 days after the
31 deadline for the person against whom the penalty may be assessed to request a hearing. However,
32 if requested by the person against whom the penalty may be assessed, a hearing under subsection
33 (3) of this section shall be held not later than 60 days after the deadline for the person against whom
34 the penalty may be assessed to request a hearing.

35 “(5) The Secretary of State shall issue an order not later than 90 days after a hearing or after

1 the deadline for requesting a hearing if no hearing is held.

2 “(6) The person against whom a penalty may be assessed need not appear in person at a hearing
3 held under this section, but instead may submit written testimony and other evidence, **sworn to**
4 **before a notary public** [*subject to the penalty for false swearing*], to the Secretary of State for entry
5 in the hearing record. The testimony and other evidence must be received by the secretary not later
6 than three business days before the day of the hearing and may be submitted electronically.

7 “(7) A civil penalty imposed under this section may not be more than the following:

8 “(a) For failure to file a statement or certificate required to be filed under ORS 260.044, 260.057,
9 260.076, 260.078, 260.083, 260.112 or 260.118, 10 percent of the total amount of the contribution or
10 expenditure required to be included in the statement or certificate; or

11 “(b) For each failure to include in a statement filed under ORS 260.044, 260.057, 260.076, 260.078,
12 260.083, 260.112 or 260.118 the information required under ORS 260.044, 260.057, 260.076, 260.083 or
13 260.118, 10 percent of the total amount of the contribution or expenditure required to be included
14 in the statement.

15 “(8) The Secretary of State, upon a showing of mitigating circumstances, may reduce the amount
16 of the penalty described in subsection (7) of this section.

17 “(9) Except as otherwise provided by this section, civil penalties under this section shall be
18 imposed as provided in ORS 183.745.

19 “**SECTION 10.** ORS 260.285 is amended to read:

20 “260.285. (1) The Secretary of State may impose a civil penalty as provided in this section, in
21 addition to any other penalty that may be imposed, for failing to:

22 “(a) Timely file an initial donor identification list required to be filed under ORS 260.281;

23 “(b) Timely file an updated donor identification list required to be filed under ORS 260.281; or

24 “(c) Include all donors or amounts donated that are required to be included in an initial donor
25 identification list or an updated donor identification list that is required to be filed under ORS
26 260.281.

27 “(2)(a) For each failure to timely file an initial donor identification list that is required to be
28 filed under ORS 260.281 for exceeding the electioneering threshold for a legislative race, the Secre-
29 tary of State may impose a civil penalty not to exceed the lesser of:

30 “(A) 10 percent per day of the total cost for political communications made by the covered or-
31 ganization for the applicable legislative race; or

32 “(B) 150 percent of the total cost for political communications made by the covered organization
33 for the applicable legislative race.

34 “(b) For each failure to timely file an initial donor identification list that is required to be filed
35 under ORS 260.281 for exceeding the electioneering threshold for a measure, the Secretary of State
36 may impose a civil penalty not to exceed the lesser of:

37 “(A) 10 percent per day of the total cost for political communications made by the covered or-
38 ganization for the applicable measure; or

39 “(B) 150 percent of the total cost for political communications made by the covered organization
40 for the applicable measure.

41 “(c) For each failure to timely file an initial donor identification list that is required to be filed
42 under ORS 260.281 for exceeding the electioneering threshold for a political committee, the Secre-
43 tary of State may impose a civil penalty not to exceed the lesser of:

44 “(A) 10 percent per day of the total cost for political communications made by the covered or-
45 ganization for the applicable political committee; or

1 “(B) 150 percent of the total cost for political communications made by the covered organization
2 for the applicable political committee.

3 “(d) For each failure to timely file an initial donor identification list that is required to be filed
4 under ORS 260.281 for exceeding the electioneering threshold for a statewide race, the Secretary
5 of State may impose a civil penalty not to exceed the lesser of:

6 “(A) 10 percent per day of the total cost for political communications made by the covered or-
7 ganization for the applicable statewide race; or

8 “(B) 150 percent of the total cost for political communications made by the covered organization
9 for the applicable statewide race.

10 “(3) For each failure to accurately include the name of a donor or the amount a donor donated
11 to the covered organization in an initial donor identification list or an updated donor identification
12 list that is required to be filed under ORS 260.281, or for each failure to timely file an updated donor
13 identification list that is required to be filed under ORS 260.281, the Secretary of State may impose
14 a civil penalty not to exceed 10 percent of the aggregate donations that were not properly identified.

15 “(4) Except as otherwise provided by this section, civil penalties under this section shall be
16 imposed as provided in ORS 183.745. In addition to the requirements for a notice of right to a
17 hearing of ORS 183.745, the notice shall include:

18 “(a) A statement of the authority and jurisdiction under which the hearing is to be held; and

19 “(b) If the person is an agency, corporation or an unincorporated association, a statement that
20 such person must be represented by an attorney licensed in Oregon.

21 “(5) A hearing on whether to impose a civil penalty and to consider circumstances in mitigation
22 shall be held by the Secretary of State:

23 “(a) Upon request of the person against whom the penalty may be assessed, if the request is
24 made not later than the 20th day after the date the person received notice sent under subsection (4)
25 of this section; or

26 “(b) Upon the Secretary of State’s own motion.

27 “(6) The person against whom a penalty may be assessed need not appear in person at a hearing
28 held under this section, but instead may submit written testimony or other evidence, sworn to before
29 a notary public, to the Secretary of State for entry in the hearing record. The testimony or other
30 evidence must be received by the Secretary of State not later than three business days before the
31 day of the hearing **and may be submitted electronically.**

32 “(7) All hearings under this section shall be held not later than 45 days after the deadline for
33 the person against whom the penalty may be assessed to request a hearing. However, if requested
34 by the person against whom the penalty may be assessed, a hearing under subsection (5) of this
35 section shall be held not later than 60 days after the deadline for the person against whom the
36 penalty may be assessed to request a hearing.

37 “(8) The Secretary of State shall issue an order not later than 90 days after a hearing or after
38 the deadline for requesting a hearing if no hearing is held.

39 “(9) All penalties recovered under this section shall be paid into the State Treasury and credited
40 to the General Fund.

41 “(10) The Secretary of State may adopt rules necessary to implement this section.

42 “**SECTION 11.** ORS 260.995, as amended by section 3, chapter 636, Oregon Laws 2019, is
43 amended to read:

44 “260.995. (1) Except as provided in subsection (2) of this section, following an investigation un-
45 der ORS 260.345, the Secretary of State or Attorney General may impose a civil penalty not to ex-

1 ceed \$1,000 for each violation of any provision of Oregon Revised Statutes relating to the conduct
2 of any election, any rule adopted by the secretary under ORS chapters 246 to 260 or any other
3 matter preliminary to or relating to an election, for which a civil penalty is not otherwise provided.

4 “(2) The secretary or the Attorney General may impose a civil penalty not to exceed:

5 “(a)(A) Except as provided in subparagraph (B) of this paragraph, \$1,000 plus the amount con-
6 verted to personal use for each violation of ORS 260.407;

7 “(B) Two times the amount of the penalty provision for violating a nondisclosure agreement that
8 is contained within each nondisclosure agreement entered into in violation of ORS 260.407 or
9 260.413;

10 “(b) 150 percent of the total cost of printing, transmitting or distributing a communication in
11 support of or in opposition to a clearly identified candidate if the disclosure requirements set forth
12 in ORS 260.266 are not met; or

13 “(c) \$10,000 for each violation of ORS 260.555, 260.558, 260.575, 260.695 (1) or 260.715 (1) or
14 [section 1b,] Article IV, **section 1b**, of the Oregon Constitution.

15 “(3) Except as otherwise provided by this section, civil penalties under this section shall be
16 imposed as provided in ORS 183.745. In addition to the requirements of ORS 183.745, the notice shall
17 include:

18 “(a) A statement of the authority and jurisdiction under which the hearing is to be held; and

19 “(b) If the person is an agency, corporation or an unincorporated association, a statement that
20 such person must be represented by an attorney licensed in Oregon, unless the person is a political
21 committee which may be represented by any officer identified in the most recent statement of or-
22 ganization filed with the filing officer.

23 “(4) A hearing on whether to impose a civil penalty and to consider circumstances in mitigation
24 shall be held by the secretary or Attorney General:

25 “(a) Upon request of the person against whom the penalty may be assessed, if the request is
26 made not later than the 20th day after the **service** date [*the person received*] **on the** notice sent
27 under subsection (3) of this section; or

28 “(b) Upon the secretary’s or Attorney General’s own motion.

29 “(5) The person against whom a penalty may be assessed need not appear in person at a hearing
30 held under this section, but instead may submit written testimony or other evidence, sworn to before
31 a notary public, to the secretary or Attorney General for entry in the hearing record. The testimony
32 or other evidence must be received by the secretary or Attorney General not later than three
33 business days before the day of the hearing **and may be submitted electronically**.

34 “(6) All hearings under this section shall be held not later than 45 days after the deadline for
35 the person against whom the penalty may be assessed to request a hearing. However, if requested
36 by the person against whom the penalty may be assessed, a hearing under subsection (4) of this
37 section shall be held not later than 60 days after the deadline for the person against whom the
38 penalty may be assessed to request a hearing.

39 “(7) The secretary or Attorney General shall issue an order not later than 90 days after a
40 hearing or after the deadline for requesting a hearing if no hearing is held.

41 “(8) All penalties recovered under this section shall be paid into the State Treasury and credited
42 to the General Fund.

43 “(9) In the case of a civil penalty imposed under this section for a violation of ORS 260.407, the
44 person against whom the penalty is assessed:

45 “(a) Is personally responsible for the payment of the civil penalty;

1 “(b) Shall pay the civil penalty from personal funds of the person; and
2 “(c) May not pay the civil penalty from contributions received by a candidate, a candidate’s
3 principal campaign committee, a political committee or a petition committee.
4 “**SECTION 12.** ORS 253.065 is amended to read:
5 “253.065. (1) For electors with mailing addresses outside this state, the county clerk shall deliver
6 a ballot:
7 “(a) Not later than the 45th day before the election to each military or overseas elector; and
8 “(b) Not sooner than the 29th day before the election to each absent elector with a mailing ad-
9 dress outside this state who is not a military or overseas elector.
10 “(2) The clerk shall deliver with the ballot instructions for marking and returning the ballot, a
11 return identification envelope and, **if used**, a secrecy envelope. The back of the envelope shall in-
12 clude a statement to be signed by the absent elector, stating that the elector:
13 “(a) Is qualified to vote;
14 “(b) Unless prevented by physical disability, has personally marked the ballot; and
15 “(c) Has not unnecessarily exhibited the marked ballot to any other person.
16 “(3) An absent elector may obtain a replacement ballot if the ballot delivered under this section
17 is destroyed, spoiled, lost or not received by the elector. The county clerk shall keep a record of
18 each replacement ballot provided under this subsection.
19 “(4) A replacement ballot provided under subsection (3) of this section may be mailed or shall
20 be made available in the office of the county clerk.
21 “(5) If the county clerk determines that an absent elector to whom a replacement ballot has
22 been issued at the request of the elector has voted more than once, the county clerk shall count only
23 the first ballot received by the clerk and provide the elector’s name to the Secretary of State for
24 further review. If the county clerk is required to reissue ballots due to a change on the ballot for
25 any reason, that ballot shall be counted in lieu of any previous ballot issued unless:
26 “(a) Only the original ballot was voted and returned; or
27 “(b) The county clerk issued a supplemental ballot that is not a complete replacement of the
28 original ballot.
29 “**SECTION 13.** ORS 254.408 is amended to read:
30 “254.408. (1) A person offering to vote and who claims to be an elector, but for whom no evi-
31 dence of active or inactive registration can be found, shall be granted the right to vote in the
32 manner provided in this section.
33 “(2) Whenever an elector updates a registration at a county clerk’s office after the ballots have
34 been mailed under ORS 254.470, the elector shall vote in that election in the manner provided in this
35 section.
36 “(3) An elector voting under this section shall complete and sign a registration card.
37 “(4)(a)(A) **Except as provided in subparagraph (B) of this paragraph**, the elector shall insert
38 the ballot into a small envelope provided by the county clerk and then insert the small envelope into
39 a larger envelope. The larger envelope shall be delivered to the county clerk and shall be segregated
40 and not counted until the registration of the elector is verified under this section.
41 “**(B) The county clerk shall inform the elector of any alterations to the process described**
42 **in subparagraph (A) of this paragraph that are necessary if the Secretary of State has ap-**
43 **proved a procedure under ORS 254.458 to be used in lieu of the envelope procedures.**
44 “(b) An envelope provided under this subsection must comply with the prohibitions set forth in
45 ORS 254.470 (11).

1 “(5) The county clerk shall determine if the elector is validly registered to vote and if the vote
2 was properly cast. The ballot shall be counted only if the county clerk determines the registration
3 of the elector is considered active or inactive.

4 “(6) A vote shall be counted only if the elector is qualified to vote for the particular office or
5 on the measure.

6 “**SECTION 14.** ORS 254.470 is amended to read:

7 “254.470. (1) The Secretary of State by rule shall establish requirements and criteria for the
8 designation of places of deposit for the ballots cast in an election. The rules shall also specify the
9 dates and times the places of deposit must be open and the security requirements for the places of
10 deposit. At a minimum, the places designated under this section shall be open on the date of the
11 election for a period of eight or more hours, but must be open until at least 8 p.m. At each place
12 of deposit designated under this section, the county clerk shall prominently display a sign stating
13 that the location is an official ballot drop site.

14 “(2)(a) Except as provided in paragraphs (b) [*and (c)*] **to (d)** of this subsection, the county clerk
15 shall mail by nonforwardable mail an official ballot with a return identification envelope and a se-
16 crecy envelope not sooner than the 20th day before the date of an election and not later than the
17 14th day before the date of the election, to each active elector of the electoral district as of the 21st
18 day before the date of the election.

19 “(b) If the county clerk determines that an active elector of the electoral district as of the 21st
20 day before the date of the election does not receive daily mail service from the United States Postal
21 Service, the county clerk shall mail by nonforwardable mail an official ballot with a return iden-
22 tification envelope and a secrecy envelope to the elector not sooner than the 20th day before the
23 date of an election and not later than the 18th day before the date of the election.

24 “(c) In the case of ballots to be mailed to addresses outside this state to electors who are not
25 military or overseas electors, the county clerk may mail the ballots not sooner than the 29th day
26 before the date of the election.

27 “**(d) The county clerk is not required to mail a secrecy envelope under this subsection if**
28 **the Secretary of State has approved a different procedure under ORS 254.458 that provides**
29 **substantially the same degree of secrecy.**

30 “(3) For an election held on the date of a primary election:

31 “(a) The county clerk shall mail the official ballot of a major political party to each elector who
32 is registered as being affiliated with the major political party as of the 21st day before the date of
33 the election.

34 “(b) The county clerk shall mail the official ballot of a major political party to an elector not
35 affiliated with any political party if the elector has applied for the ballot as provided in this sub-
36 section and that party has provided under ORS 254.365 for a primary election that admits electors
37 not affiliated with any political party.

38 “(c) An elector not affiliated with any political party who wishes to vote in the primary election
39 of a major political party shall apply to the county clerk in writing. The application must be com-
40 pleted, signed and submitted by the elector electronically, in person or by mail, in a manner deter-
41 mined by the secretary by rule and must indicate which major political party ballot the elector
42 wishes to receive. Except for electors described in subsection (4) of this section, and subject to ORS
43 247.203, the application must be received by the county clerk not later than 5 p.m. of the 21st day
44 before the date of the election.

45 “(d) If the primary election ballot includes city, county or nonpartisan offices or measures, the

1 county clerk shall mail to each elector who is not eligible to vote for party candidates a ballot
2 limited to those offices and measures for which the elector is eligible to vote.

3 “(4)(a) For each elector who updates a voter registration after the deadline in ORS 247.025, the
4 county clerk shall make the official ballot, the return identification envelope and the secrecy en-
5 velope available either by mail or at the county clerk’s office or at another place designated by the
6 county clerk. An elector to whom this subsection applies must request a ballot from the county
7 clerk.

8 “(b) **The county clerk is not required to make available a secrecy envelope under this**
9 **subsection if the Secretary of State has approved a different procedure under ORS 254.458**
10 **that provides substantially the same degree of secrecy.**

11 “(5) The ballot shall contain the following warning:

12 “
13
14 Any person who, by use of force or other means, unduly influences an elector to vote in any
15 particular manner or to refrain from voting is subject to a fine.
16 “

17
18 “(6)(a) Upon receipt of any ballot described in this section, the elector shall mark the ballot,
19 sign the return identification envelope supplied with the ballot and comply with the instructions
20 provided with the ballot.

21 “(b) The elector may return the marked ballot to the county clerk by United States mail or by
22 depositing the ballot at the office of the county clerk, at any place of deposit designated by the
23 county clerk or at any location described in ORS 254.472 or 254.474.

24 “(c) The ballot must be returned in the return identification envelope.

25 “(d) Subject to paragraph (e) of this subsection, if a person returns a ballot for an elector, the
26 person shall deposit the ballot in a manner described in paragraph (b) of this subsection not later
27 than two days after receiving the ballot.

28 “(e) A ballot must be received at the office of the county clerk, at the designated place of de-
29 posit or at any location described in ORS 254.472 or 254.474 not later than the end of the period
30 determined under subsection (1) of this section on the date of the election.

31 “(7) An elector may obtain a replacement ballot if the ballot is destroyed, spoiled, lost or not
32 received by the elector. Replacement ballots shall be issued and processed as described in this
33 section and ORS 254.480. The county clerk shall keep a record of each replacement ballot provided
34 under this subsection. Notwithstanding any deadline for mailing ballots in subsection (2) of this
35 section, a replacement ballot may be mailed, made available in the office of the county clerk or made
36 available at one central location in the electoral district in which the election is conducted. The
37 county clerk shall designate the central location. A replacement ballot need not be mailed after the
38 fifth day before the date of the election.

39 “(8) A ballot shall be counted only if:

40 “(a) It is returned in the return identification envelope;

41 “(b) The envelope is signed by the elector to whom the ballot is issued, unless a certified
42 statement is submitted under ORS 254.431; and

43 “(c) The signature is verified as provided in subsection (9) of this section.

44 “(9) The county clerk shall verify the signature of each elector on the return identification en-
45 velope with the signature on the elector’s registration record, according to the procedure provided

1 by rules adopted by the Secretary of State. If the county clerk determines that an elector to whom
2 a replacement ballot has been issued has voted more than once, the county clerk shall count only
3 one ballot cast by that elector.

4 “(10) At 8 p.m. on election day, electors who are at the county clerk’s office, a place of deposit
5 designated under subsection (1) of this section or any location described in ORS 254.472 or 254.474
6 and who are in line waiting to vote or deposit a voted ballot shall be considered to have begun the
7 act of voting.

8 “(11)(a)(A) Except as provided in subparagraph (B) of this paragraph, the name of the Secretary
9 of State may not appear in the secretary’s official capacity on the return identification envelope[,
10 *secrecy envelope*] or on any instructions or materials included with the ballot if the secretary is a
11 candidate in the election for which the ballot is printed.

12 “(B) This paragraph does not prohibit the name of the Secretary of State from appearing in the
13 secretary’s official capacity in the voters’ pamphlet.

14 “(b) The name of the county clerk or other filing officer may not appear in the official capacity
15 of the county clerk or filing officer on the return identification envelope[, *secrecy envelope*] or on
16 any instructions or materials included with the ballot if the county clerk or filing officer is a can-
17 didate in the election for which the ballot is printed.

18 “(c) As used in this subsection, ‘filing officer’ has the meaning given that term in ORS 254.165.

19 “**SECTION 15.** ORS 254.478 is amended to read:

20 “254.478. (1) Subject to ORS 260.705 [*and not sooner than the seventh day before the date of an*
21 *election*], **upon receipt of ballots**, the county clerk may:

22 “(a) Begin opening return identification **envelopes of ballots** and **any used** secrecy envelopes
23 of ballots [*delivered by mail and received by the county clerk*]; and

24 “(b) In accordance with a security plan approved by the Secretary of State under ORS 254.074,
25 begin scanning ballots into a vote tally system.

26 “(2) The county clerk may take any other actions that are necessary to count ballots [*delivered*
27 *by mail*].

28 “**SECTION 16.** ORS 249.865 is amended to read:

29 “249.865. (1) Pursuant to Article II, section 18, of the Oregon Constitution, an elector of the
30 electoral district from which the public officer is elected may file a petition demanding the recall
31 of the public officer. The production and circulation of the petition must conform to the require-
32 ments governing recall petitions set forth in ORS 250.048 and 250.052. Before the petition is circu-
33 lated for signatures, the chief petitioner of the petition shall file with the officer authorized to order
34 the recall election a copy of the prospective petition signed by the chief petitioner.

35 “(2) The chief petitioner shall include with the prospective petition a statement declaring
36 whether one or more persons will be paid money or other valuable consideration for obtaining sig-
37 natures of electors on the recall petition. After the prospective petition is filed, the chief petitioner
38 shall notify the filing officer not later than the 10th day after the chief petitioner first has knowl-
39 edge or should have had knowledge that:

40 “(a) Any person is being paid for obtaining signatures, when the statement included with the
41 prospective petition declared that no such person would be paid.

42 “(b) No person is being paid for obtaining signatures, when the statement included with the
43 prospective petition declared that one or more such persons would be paid.

44 “(3) Each sheet of the recall petition must contain:

45 “(a) The words ‘Petition for recall of,’ (name and title of officer) and the date of the filing under

1 subsection (1) of this section; and

2 “(b) The name and [address] **city and state of residence** of the chief petitioner [*listed on the*
3 *statement of organization filed under ORS 260.118*].

4 “(4) Not more than 20 signatures on each sheet of the recall petition shall be counted. The
5 circulator shall certify on each signature sheet that the circulator:

6 “(a) Witnessed the signing of the signature sheet by each individual whose signature appears
7 on the signature sheet; and

8 “(b) Believes each individual is an elector.

9 “(5) Any intentional or willful violation of subsection (1) or (2) of this section by a chief
10 petitioner of the recall petition listed on the statement of organization filed under ORS 260.118 in-
11 validates the prospective petition before it is circulated for signatures.”.

12
